

SAR 21
JUSTICES PRO TEMPORE

(a) Generally. If one or more justices recuse on a case which reduces the court to an even number, a pro tempore justice shall be appointed by the Chief Justice when available, unless a majority of the court directs otherwise. In all other cases of recusal, the Chief Justice shall notify the other justices, in writing, of the recusal as soon as the fact of recusal becomes known to the Chief Justice, and the majority shall direct whether a pro tempore justice should be appointed when available.

(b) Qualifications. If a pro tempore justice is to be selected, the proposed selection shall be made in the manner set forth hereafter by the Chief Justice, or at the Chief Justice's option by the Clerk of the Court, from a list of active and retired court of appeals judges. The list shall be approved on an annual basis by a majority of the Court. All retired appellate judges will be included on the list, *except* those who prefer not to be on the list or who are (1) incapacitated, (2) litigants whose cases have been in this court or will likely come to this court, (3) over 75 years of age (the mandatory judicial retirement age in this state), or (4) practicing law as a sole practitioner, member of a law firm, or of counsel to a law firm, or legal counsel for any private, nonprofit, or government entity.

(c) Selection. When a pro tempore justice is to serve in a case, the names on the pro tempore list will be put on separate slips and drawn from a container by the Clerk to ensure that selection is random. A pro tempore justice so selected who agrees to serve will serve on all the cases, where a pro tempore justice is needed, on a given court day. A separate drawing will be held for each day.

(d) Oath. A justice pro tempore shall take the oath of office required by article 4, section 28 of the state constitution. The oath of office, together with the original order of appointment, shall be filed forthwith in the office of the Secretary of State. A copy of the oath and order of appointment shall be filed in the office of the Clerk of the Supreme Court.

(e) Duties of the Justice Pro Tempore.

(1) A justice, while serving pro tempore, shall have the same power and authority as a Justice of the Supreme Court, and the pro tempore justice shall perform such duties as the court may direct. Justices pro tempore shall author majority opinions at the discretion of the Chief Justice.

(2) A justice pro tempore will function promptly on opinions and motions for reconsideration on which the pro tempore justice is qualified to function. When such opinions are received by the pro tempore justice after the period of the appointment has expired, the original period of office as a justice pro tempore shall be deemed to exist in order for the pro tempore justice to function and to accomplish the ministerial act of filing the opinion.

(f) Publication of Opinions.

(1) *Dissents and Concurrences.* Dissents or concurrences written by a justice pro tempore shall be published in regular form, except that a reference symbol shall be placed after the name, directing attention to a footnote which shall read:

"Justice _____ is serving as a justice pro tempore of the Supreme Court pursuant to Const. art. 4, section 2(a) (amend. 38)."

(2) Opinions signed by a justice pro tempore shall be published in the regular form, except that the name of the justice pro tempore shall follow the names of the Justices of the Supreme Court signing such opinion, with the designation "Pro Tem." after the signature.

(3) There shall appear, in each bound volume of the Washington Reports, on the page following the page listing the Justices of the Supreme Court, the names and terms of office of the justices pro tempore who served during the period covered by the published volume.

[Adopted effective September 12, 1969; Amended effective June 1, 1999' June 1, 2010.]